

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

| | | |
|------------------------------------|---|--------------------------------------|
| JP MORGAN CHASE BANK, |) | |
| NATIONAL ASSOCIATION, |) | Case No. 1:23-cv-01112 |
| |) | |
| Plaintiff, |) | Hon. District Judge Robert J. Jonker |
| |) | |
| v. |) | |
| |) | |
| JOHN W. HIGGINS, |) | |
| MARTHA R. HIGGINS; and the |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |
| <hr/> | | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Counterclaim/Crossclaim Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| JOHN W. HIGGINS, |) | |
| MARTHA R. HIGGINS; |) | |
| |) | |
| Crossclaim Defendants |) | |
| |) | |
| And |) | |
| |) | |
| JPMORGAN CHASE BANK, N.A., and |) | |
| TREASURER, BERRIEN CO., MICHIGAN |) | |
| |) | |
| Counterclaim Defendants. |) | |
| <hr/> | | |

**DEFENDANT UNITED STATES' MOTION FOR AN EXTENSION OF TIME TO
RESPOND TO BERRIEN COUNTY TREASURER'S MOTION TO DISMISS**

The defendant United States of America respectfully moves to request a 21-day extension of time—through February 5, 2024—to respond to the Motion to Dismiss filed in this action by counterclaim-defendant Berrien County Treasurer because the United States may agree to dismissal depending upon certain events described below.

Berrien County Treasurer filed a motion to dismiss for failure to state a claim on December 18, 2023. As per the local rules of Western District of Michigan, LR 7.2(c), a party opposing a dispositive motion has 28 days to file an opposing brief. The United States is currently seeking a stipulation with JPMorgan Chase Bank, N.A. in which the bank may agree to continue paying the property taxes, and that could impact the need to oppose the motion and may result in an agreed upon, voluntary dismissal of the Berrien County Treasurer.¹ In the interest of potentially avoiding exerting resources on opposing a motion that may be alternatively resolved, the United States respectfully requests an additional 21 days to respond to the motion to dismiss.

Respectfully submitted,

DAVID A. HUBBERT
Acting Assistant Attorney General
U.S. Department of Justice, Tax Division

/s/ Sarah Stoner
SARAH STONER
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044
202-514-1170 (v)
202-514-5238 (f)
Sarah.Stoner@usdoj.gov

¹ Although Chase has apparently heretofore been paying the property taxes, the United States claims a right to join county taxing authorities in all of its federal tax lien enforcement actions in order to assure that property tax accrued during the litigation does not result in a local nonjudicial tax sale that can cause serious damage to the interests of the United States. But it is far preferable if a mortgagee will continue payments as that prevents the accrual of interest on overdue property taxes at comparatively high interest rates.

Certificate of Conference

I certify that on January 11, 2024, I conferred by email with the following recipients to determine their positions concerning the extension requested herein.

Thaddeus J. Hackworth
Berrien County Corporate Counsel
701 Main Street
St. Joseph, MI 49085
thackworth@berriencounty.org

John Higgins
Pro se litigant
jhiggins@higginsdevelopment.com

Martha Higgins
Pro se litigant
jhiggins@higginsdevelopment.com

Mr. Hackworth, Mr. Higgins, and Mrs. Higgins did not oppose this motion. Further, I contacted JPMorgan Chase Bank, N.A. on January 10, 2024, by email sent to the below recipient:

Mark J. Magyar
DYKEMA GOSSETT PLLC
Attorney for JPMorgan Chase Bank, N.A.
201 Townsend St., Suite 900
Lansing, MI 49301
mmagyar@dykema.com

The email sent to Mr. Magyar asked if he opposed this motion, but I have not received a response.

/s/ Sarah Stoner
SARAH STONER
Trial Attorney, Tax Division

Certificate of Service

I certify that on January 12, 2024, I electronically filed the foregoing motion with the Court, notice of which will be sent electronically via the Court's CM/ECF system to all parties registered to receive electronic notification.

In addition, I caused to be mailed a copy of the motion to the following parties identified as not registered with the Court's CM/ECF system:

John Higgins
50102 Alpine Blvd.
Grand Beach, MI 49117

Martha Higgins
50102 Alpine Blvd.
Grand Beach, MI 49117

/s/ Sarah Stoner
SARAH STONER
Trial Attorney, Tax Division